

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

THOMAS J. BRAATON,

Plaintiff,

v.

CCA OF SHELBY, MT., STATE OF
MONTANA, SHELBY MEDICAL
CENTER X-RAY TECH, OFFICER
MATHUE CLARK, CITY OF
SHELBY, and SHELBY SHERIFF'S
OFFICE,

Defendants.

CV-17-67-GF-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on May 23, 2018. (Doc. 11.) No party filed objections.

Given that no objections were filed, the Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

I.BACKGROUND

Plaintiff Thomas Braaton (“Braaton”) filed a Complaint on July 10, 2017. (Doc. 1.) Judge Johnston issued an Order on January 26, 2018, finding that Braaton’s Complaint would be served on Defendant Clark by subsequent order. Judge Johnston also found, however, that that Braaton had failed to state a claim against Defendants CCA, the State of Montana, the City of Shelby, Shelby Medical Center, or the Shelby Sheriff’s Office, and that Braaton had failed to provide sufficient information on the “X-Ray Tech” named as a defendant. (Doc. 9.)

Judge Johnston’s Order provided Braaton an opportunity to file an amended complaint. *Id.* Judge Johnston further ordered Braaton to notify the Court if, in the alternative, he wished to proceed only on his allegations against Defendant Clark. *Id.* Braaton failed to respond to Judge Johnston’s Order.

Judge Johnston issued a Show Cause Order on April 9, 2018. (Doc. 10.) Judge Johnston ordered that Braaton show cause on or before May 4, 2018, as to why this matter should not be dismissed for failure to comply with Judge Johnston’s January 26, 2018, Order. *Id.* Braaton failed to respond to Judge Johnston’s Show Cause Order.

II.DISCUSSION

Judge Johnston recommends that the Court dismiss Braaton’s complaint pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (Doc. 11 at 5.)

The record reflects that Judge Johnston has provided Braaton ample opportunities to respond. Braaton has failed to file anything in this case since November 28, 2017. (Doc. 8.) The Court finds no error in Judge Johnston's Findings and Recommendations, and adopts them in full.

III. ORDER

Accordingly, **IT IS ORDERED** that Magistrate Judge Johnston's Findings and Recommendations (Doc. 11) is **ADOPTED IN FULL**. Braaton's Complaint is **DISMISSED** pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is directed to close the case and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

The Clerk of Court is further directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

DATED this 19th day of July, 2018.



Brian Morris
United States District Court Judge